

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

FILED
MAR 21 2007
ADMINISTRATIVE HEARING
COMMISSION

DOULGAS M. OMMEN, Director,)
Missouri Department of Insurance,)
Financial Institutions and Professional)
Registration,)

Petitioner,)

vs.)

CODY W. ICE,)

Respondent.)

Case No.: 06-1629 DI

PETITIONER'S MOTION FOR LEAVE TO AMEND COMPLAINT

Petitioner, Douglas M. Ommen, director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, and pursuant to 1 CSR 15-3.350 hereby moves for leave to amend Petitioner's Complaint. In support thereof, Petitioner states as follows:

1. Petitioner filed a Complaint on November 15, 2006, with the Administrative Hearing Commission alleging that sufficient cause exists for disciplining Respondent's insurance producer license.
2. Petitioner has determined that there are additional grounds for cause to discipline Respondent's license that were not pleaded in the Complaint filed on November 15, 2006. (See Exhibit A, attached hereto).
3. Petitioner hereby requests that the Commission deem Petitioner's First Amended Complaint as filed in this case.
4. This motion is made in the interest of justice and not with the intent to hinder these

proceedings in any manner.

WHEREFORE, Petitioner respectfully requests that this Commission grant Petitioner's Motion for Leave to Amend.

Respectfully submitted,

A handwritten signature in cursive script that reads "Tamara A. Wallace". The signature is written in black ink and is positioned above a horizontal line.

Tamara A. Wallace

Missouri Bar # 59020

Missouri Department of Insurance, Financial
Institutions & Professional Registration

301 West High Street, Room 530

Jefferson City, Missouri 65101

Telephone: (573) 751-2619

Facsimile: (573) 526-5492

ATTORNEY FOR PETITIONER

Douglas M. Ommen, Director

Missouri Department of Insurance, Financial
Institutions & Professional Registration

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of the foregoing was mailed first class, with sufficient postage attached, via the United States Postal Service on this 21st day of March, 2007, to:

Cody Ice, President of C & M
Bonding, Inc.
180 North Street
Houston, Missouri 65483-0050
Telephone: (417) 967-3416


Tamar Wallace

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

DOUGLAS M. OMMEN, Director)
Department of Insurance, Financial)
Institutions & Professional Registration)
State of Missouri,)

Petitioner,)

vs.)

CODY W. ICE,)

Respondent.)

Case No.: 06-1229 DI

RECEIVED
MAR 21 2007
Administrative Hearing Commission

PETITIONER'S FIRST AMENDED COMPLAINT

Douglas M. Ommen, Director of the Missouri Department of Insurance, Financial Institutions, and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists for disciplinary action against Respondent, Cody W. Ice, because:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director of the Missouri Department of Insurance, Financial Institutions, and Professional Registration (hereinafter "the Director"), whose duties include, pursuant to RSMo Chapters 374 and 375, the regulation, supervision, and discipline of bail bond agents.
2. The Missouri Department of Insurance, Financial Institutions, and Professional Registration (hereinafter "the Department") issued a bail bond agent license (License Number BB303964) to Respondent on September 26, 1984. Respondent's bail bond agent license is currently active and set to expire on September 26, 2007.

3. The Department issued a general bail bond agent license to C & M Bonding, Inc. (License Number GC8004376). Such license is currently active and is set to expire on August 7, 2007.

4. Respondent is the President of C & M Bonding, Inc., a corporation registered with the Missouri Secretary of State (Charter Number 00437710).

5. At all times relevant to this complaint, Respondent, as an appointed agent, was authorized to write upon C & M Bonding, Inc.'s surety.

6. At all times relevant to this complaint, Respondent was the President of C & M Bonding, Inc.

7. The Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (Cum. Supp. 2005).

COUNT I

8. Respondent has obtained or attempted to obtain compensation as a bail bond agent by means of fraud, deception, or misrepresentation, a ground for discipline of Respondent's general bail bond agent license pursuant to § 374.755.1(4), RSMo (Cum. Supp. 2005).

9. The facts are as follows:

- a. At all times relevant to this count, Philip Jeffrey Stillwell was working as a bail bond agent under Respondent and C & M Bonding, Inc.
- b. On or about June 28, 2004, Anthony J. Mottin was being held at the Camden County Jail awaiting prosecution for first degree robbery, second degree assault, and armed criminal action. The Camden County Circuit Court set bond at two hundred fifty thousand dollars (\$250,000.00). The Camden County Circuit Court

set an additional cash-only bond of five thousand dollars (\$5,000.00) when Mr. Mottin was charged with damaging jail property.

- c. On or about June 28, 2004, Mr. Mottin met with Mr. Stillwell at the Camden County Jail where Mr. Stillwell agreed to post the necessary funds to secure Mr. Mottin's release from the Camden County Jail.
- d. On or about June 28, 2004, Mr. Stillwell posted the necessary funds for Mr. Mottin to be released on the two hundred fifty thousand dollars (\$250,000.00) bond. Mr. Stillwell signed the bond form as C & M Bonding, Inc.'s agent. Mr. Stillwell did not post the five thousand dollars (\$5,000.00) cash bond at that time.
- e. On or about June 29, 2004, Mr. Mottin appointed Mr. Stillwell to serve as his attorney-in-fact to receive, endorse, and collect the following checks on Mr. Mottin's behalf:
 - i. Southern Illinois Carpenters Annuity Fund check #2305, dated June 22, 2004, in the amount of nine thousand, three hundred fifty-nine dollars and eighteen cents (\$9,359.18);
 - ii. United States Treasury tax refund check #2306 39199718, dated April 30, 2004, in the amount of three thousand, ten dollars (\$3,010.00).
- f. On or about June 29, 2004, the two previously mentioned checks appear to have been endorsed by "Philip J. Stillwell Attney In Fact for Anthony Mottin under durable POA Date 6/29/04."
- g. On or about July 3, 2004, Mr. Stillwell posted a cash bond, in his own name, not as an agent of Respondent or C & M Bonding, Inc., in the amount of five thousand dollars (\$5,000.00) for Mr. Mottin's release.

- h. Due to separate criminal charges in the State of Illinois, Mr. Mottin was not released from the Camden County Jail at that time.
- i. Approximately twelve (12) days after posting the five thousand dollar (\$5,000.00) cash bond, C & M Bonding, Inc. or Respondent revoked both bonds without refunding any portion of the funds provided by Mr. Mottin.
- j. Mr. Mottin's counsel, Vanessa Antoniou (Missouri Bar # 40844), attempted to contact C & M Bonding, Inc. in order to obtain a refund of the amounts paid by Mr. Mottin.
- k. Ms. Antoniou notified the Department, via letter dated July 3, 2005, of Respondent's and C & M Bonding, Inc.'s failure to refund Mr. Mottin's money and Respondent's and C & M Bonding, Inc.'s refusal to communicate with her or Mr. Mottin.
- l. To date, Respondent, nor C & M Bonding, Inc., nor Mr. Stillwell, has refunded any portion of the funds paid to them by Mr. Mottin.

10. As a result, sufficient grounds exist for disciplining Respondent's bail bond agent license pursuant to § 374.755.1(4), RSMo (Cum. Supp. 2005).

COUNT II

11. Respondent was authorized to write bail bond policies under C & M Bonding, Inc. at the time C & M Bonding, Inc. failed to satisfy multiple bond forfeiture judgments, a ground for discipline of Respondent's bail bond agent license pursuant to §§ 374.763.1 and § 374.755.1(6), RSMo (Cum. Supp. 2005).

12. The facts are as follows:

- a. § 374.736.1, RSMo (Cum. Supp. 2005) provides for bail bond agent disciplinary liability when the general bail bond agent under which the agent is writing bail bond policies fails to satisfy a forfeiture judgment within six (6) months of such forfeiture judgment.
- b. While Respondent was an agent authorized to write upon C & M Bonding, Inc.'s surety, C & M Bonding, Inc. failed to satisfy multiple forfeiture judgments ordered by the Circuit Court of Texas County totaling at least one hundred twenty-four thousand dollars (\$124,000.00), including:
 - i. Case Number CR900-89M, bond forfeiture judgment in the amount of five thousand dollars (\$5,000.00) entered on August 12, 2005.
 - ii. Case Number CR901-803F, bond forfeiture judgment in the amount of five thousand dollars (\$5,000.00) entered on August 12, 2005.
 - iii. Case Number CR905-715F, bond forfeiture judgment in the amount of fifty thousand dollars (\$50,000.00) entered on July 26, 2006.
 - iv. Case Number CR905-716F, bond forfeiture judgment in the amount of seven thousand dollars (\$7,000.00) entered on July 26, 2006.
 - v. Case Number CR905-717F, bond forfeiture judgment in the amount of fifty thousand dollars (\$50,000.00) entered on July 26, 2006.
 - vi. Case Number CR905-718F, bond forfeiture judgment in the amount of seven thousand dollars (\$7,000.00) entered on July 26, 2006.
- c. The moneys due the Texas County Court were not paid within six (6) months of judgment.

d. The bond forfeiture judgments associated with case numbers CR900-89M and CR901-803F were satisfied on October 13, 2006.

13. As a result, sufficient grounds exist for disciplining Respondent's bail bond agent license pursuant to §§ 374.763.1 and 374.755.1(6), RSMo (Cum. Supp. 2005).

WHEREFORE, based on the foregoing, Petitioner respectfully requests the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent's bail bond agent license under §§ 374.736.1, 374.755.1(4), and (6), RSMo (Cum. Supp. 2005).

Respectfully submitted,

A handwritten signature in cursive script that reads "Tamara Wallace". The signature is written in dark ink and is positioned above a horizontal line.

Tamara A. Wallace
Missouri Bar # 59020
Enforcement Counsel
Missouri Department of Insurance, Financial
Institutions & Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
(573) 751-2619

ATTORNEY FOR PETITIONER
Douglas M. Ommen, Director
Missouri Department of Insurance, Financial
Institutions & Professional Registration

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of the foregoing was mailed first class, with sufficient postage attached, via the United States Postal Service on this 21st day of March, 2007, to:

Cody Ice, President of C & M
Bonding, Inc.
180 North Street
Houston, Missouri 65483-0050
Telephone: (417) 967-3416

Tamara Wallace